



Appeal Decision

Site visit made on 11 August 2020

by **J Gibson BUEP MPIA**

an Inspector appointed by the Secretary of State

Decision date: 5 October 2020

Appeal Ref: **APP/L3245/W/20/3252790**

Barn adjacent Roundabout Farm, Roughton Lane, Roughton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr R Brindley against the decision of Shropshire Council.
 - The application Ref 19/04951/PMBPA, dated 11 November 2019, was refused by notice dated 15 January 2020.
 - The development proposed was originally described as "the conversion of an existing agricultural barn to a residential dwelling (Class C3) at Roundabout Farm, Roughton".
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for the change of use and conversion of an agricultural building to two residential units at the barn adjacent Roundabout Farm, Roughton Lane, Roughton in accordance with details submitted pursuant to Article 3(1) and Schedule 2, Part 3, Paragraph Q.2(1) of the GPDO through application Ref 19/04951/PMBPA, dated 11 November 2019, subject to the conditions in the attached schedule.

Procedural Matters

2. The description of development in the above heading has been taken from the appellant's submitted cover letter and proposed plans of development. This description, as well as those shown on the submitted Application Form, Appeal Form and Decision Notice, include unnecessary details and do not accurately describe the full extent of the proposed development. Based on the various descriptions presented, I have determined the appeal on the basis that the proposed development is for a change of use and conversion of an agricultural building to two residential units. This represents the most accurate and concise description of the proposed development.
3. The appellant submitted an amended plan of development during the application stage to remove the proposed cladding on the exterior of the converted building in response to grounds of refusal raised by the Council ahead of their decision. It is clear from the Council's statement of case that they determined the application based on the original drawings submitted as part of the application. In the interest of fairness, I have therefore determined the appeal based on the original plans.

Background and Main Issue

4. Class Q of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a dwellinghouse, including any building operations reasonably necessary to convert the building. However, there are a number of circumstances where such development is not permitted, which are listed in Paragraph Q.1. These include that the site was not used solely for an agricultural use as part of an established agricultural unit on or before a specified date and that the external dimensions of the building would exceed those of the existing building.
5. The main issue is therefore whether the proposal would be permitted development under the provisions of Class Q of the GPDO, with particular regard to whether the site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013; and whether the proposed development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.

Reasons

6. The appellant has described the barn as having been used for the storage of agricultural paraphernalia, such as tractors, agricultural implements/machinery and storage of animal food, in support of the agricultural use of the surrounding farmland for the rearing of sheep since the property was purchased in 1992. The agricultural use of the barn was said to have ceased from at least 2015 and has remained vacant since. Signed statements from the appellant, agricultural tenant of the barn and current landowner of the adjacent Roundabout Farm have been submitted to support the purported agricultural use of the barn and indicative timeline over which this occurred.
7. The Council have expressed concerns over whether the barn was solely in agricultural use on the 20th March 2013 due to their site visit observations undertaken as part of their application assessment in 2019. They observed that domestic paraphernalia was being stored in the barn, described as comprising of clothes, material, a cool box cuddly toy and building materials, which is also captured in photos in the appellant's submitted Structural Report.
8. Nevertheless, this does not in itself demonstrate that the barn was not solely used for an agricultural use on the relevant date. On the balance of probabilities and in the absence of substantive evidence to the contrary, I am satisfied that the barn was solely being used for agricultural purposes on the 20th March 2013.
9. With respect to the external dimensions of the existing barn, the Council has not adequately demonstrated that the proposed cladding would extend the dimensions of the building at any given point. The proposed plans of development and the submitted Structural Report show that the existing dimensions of the building would maintain the dimension of the existing barn. As such the external dimensions of the existing barn would in my view be maintained at any given point as part of the proposal.
10. Accordingly, I am satisfied that the proposed development would comply with the limitations set out by Paragraph Q.1 of Schedule 2, Part 3, Class Q of the GPDO, and as such benefits from permitted development rights.

11. I have subsequently considered the matters under Paragraph Q.2(1) of the GPDO and based on the evidence before me am satisfied that none of the matters would require prior approval. The Council reached the same conclusion in their assessment of the application.

Other Matters

12. The appellant submitted a Preliminary Ecological Appraisal and Bat Survey for consideration of the potential ecological impacts of the proposed development. The survey identifies potential impacts to protected bat species and nesting birds and offers recommendations to mitigate against these effects. Based on the evidence provided, I am satisfied that although no evidence of bats being present was found a precautionary approach is justified in this case taking account of the nature and condition of the building. However, bearing in mind the survey's findings and the comments of the Council's ecology officer adverse effects on any protected species can be mitigated against by way of appropriate conditions and therefore the proposal would be acceptable in this regard. The Council's assessment similarly supports this position. Notwithstanding the prior approval limitations previously stated, consideration of such ecology matters is necessary in accordance with the Wildlife and Countryside Act 1981 (as amended) and legislation relating to the protection of European Protected Species.
13. The Council note that the existing private access track off Roughton Lane serving Roughton Farm and the appeal site is recorded as a public footpath. They have confirmed that the public footpath would not be affected by the proposed development and note that permission to utilise the track for vehicle access is a private matter which must be secured by any future owner/occupiers of the proposed development and the owner of the track. As such, this does not alter my determination of this appeal.

Conditions

14. Paragraph Q.2(3) of the GPDO specifies that development under Class Q must be completed within a period of three years starting with the prior approval date.
15. Paragraph W(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. To ensure certainty and clarity it is necessary to impose a condition setting out the approved plans of development.
16. It is also necessary to impose conditions to mitigate the potential effects on protected bat species and nesting birds as identified within the submitted Preliminary Ecological Appraisal and Bat Survey. Specifically, the submitted survey includes recommendations relating to timing of development works/vegetation clearing, external lighting, erection of bat and bird boxes and general wildlife protection during construction. Although the appellant has undertaken a recent survey for protected species it is necessary in this case to require an additional survey as a final check to ensure that there will be no adverse effects on breeding birds.
17. The Council has suggested conditions in line with these recommendations and are in my view appropriate. However, the Council has also suggested a landscaping condition surplus to the recommendations of the submitted survey.

As such the landscaping condition would represent enhancement works, not mitigation, and there is no evidence to suggest that this would be necessary.

18. I have amended the Council's suggested conditions where necessary to adhere to the Planning Practice Guidance.

Conclusion

19. For the reasons given above I conclude that the proposal constitutes permitted development. The appeal should therefore be allowed and prior approval granted.

J Gibson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: OS Plan (Dwg No 569: Roughton Barn); Location Plan Land Ownership (Dwg No 569/B10a, Rev A, dated 19.11.2019); Survey Drawing Floor Plan, Section and Elevations (Dwg No 569/B1b, Rev B, dated 01/10/2019); Scheme Drawing Floor Plan, Section and Elevations (Dwg No 569/B2a, Rev A, dated 28/10/2019); Scheme Drawing Site Plan (Dwg No 569/B3b, Rev B, dated 29/10/2019).
- 2) No development works or vegetation clearing shall take place at any time within the bird breeding season (March 1st to August 31st inclusive) unless and until the developer submits written confirmation from a suitably qualified ecologist to the Local Planning Authority that a survey has been undertaken and found that there are no breeding birds, their young, nests or eggs that would be disturbed by the works to be carried out. If breeding birds, their young or eggs are found, no works may take place until the bird breeding season is completed or they have left the nest and there is no evidence of their returning.
- 3) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features (e.g. bat and bird boxes, trees, and hedgerows). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.
- 4) A minimum of two bird nest boxes shall be erected on the site prior to either dwelling hereby permitted being first occupied. The boxes shall be sited at least two metres above the ground on a suitable tree or structure at a northerly or shaded east/west aspect with a clear flight path, and thereafter maintained for the lifetime of the development.
- 5) A minimum of one external woodcrete bat box or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on the site prior to either of the dwellings hereby permitted being first occupied. The boxes shall be sited at an appropriate height above the ground, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

End of Schedule